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United States of America
8

9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 SANDRA S. YBARRA,) Case No. 08cv0350 JAH(RBB)
12)
Plaintiff,)
13)
v.)

14 UNITED STATES OF AMERICA;
15 ANHEUSER-BUSCH, INC. D/B/A
ANHEUSER-BUSCH SALES OF SAN
16 DIEGO, and DOES 1 through 20,
Inclusive,)

17 Defendants.)
18)
19 _____)

**DECLARATION OF MELANIE A.
ANDREWS IN SUPPORT OF
EX PARTE APPLICATION FOR
ORDER EXTENDING TIME OF
EXPERT DESIGNATIONS AND
RELATED DISCOVERY**

Date: TBA
Time: TBA
Judge: Magistrate Ruben B. Brooks

20 I, Melanie A. Andrews declare and state as follows:

21 1. I have personal knowledge of the statements made herein. If
22 called as a witness, I could and would testify competently thereto.

23 2. I am an attorney licensed to practice in the Commonwealth
24 of Pennsylvania and have been appointed as a Special Assistant U.S.
25 Attorney for the Southern District of California pursuant to 28 U.S.C.
26 § 543.

27 3. I am assigned to represent Defendant, United States of
28 America, ("USA"), in the above named action.

1 4. I concur with ABI Counsel's recitation of the relevant
2 procedural history and also concur with her rationale for requesting
3 an extension of time to designate experts and complete the related
4 discovery.

5 5. While liability, or degrees thereof, is not clear cut,
6 Counsel for the USA contacted Plaintiff's Counsel on July 1, 2008 to
7 discuss settlement in an effort to resolve the case before parties
8 devoted time and resources prosecuting and defending this matter.

9 6. For the following reasons, Plaintiff's Counsel declined
10 to discuss settlement: a) He had not received a final medical report
11 or final medical bills; b) Plaintiff was going to be examined by
12 another doctor for the purpose of producing Plaintiff's expert report;
13 c) Plaintiff wanted to settle with both USA and ABI at the same time
14 and d) Plaintiff's Counsel wanted to depose ABI and USA witnesses
15 after serving and receiving responses to discovery.

16 7. Plaintiff served the USA with discovery in increments and
17 in light of a mis-numbering of interrogatories, the last discovery
18 response is not due to Plaintiff until early September.

19 8. Also, Plaintiff did not notice the depositions of USA
20 witnesses until on or about 18 August for 10 and 11 September
21 depositions.

22 9. Since mid-May ABI has sought to conduct an Independent
23 Medical Examination (IME) of the Plaintiff. The USA and ABI jointly
24 retained a doctor to conduct the IME and produce a report.
25 Plaintiff's IME is finally scheduled for September 10th, however
26 Plaintiff's counsel has not responded to information addressing the
27 protocols generally used for IMEs conducted in this federal district.
28 Thus, it is possible that the IME may not go as planned.

